



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

BRASCH *et al.*

Appl. No. 09/695,065

Filed: October 25, 2000

For: **Methods of Manipulating and
Sequencing Nucleic Acid
Molecules Using Transposition
and Recombination**

Confirmation No.: 1682

Art Unit: 1634

Examiner: Lu, F.

Atty. Docket: 0942.5000001/RWE/BJD

Reply to Requirement for Election of Species

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated August 12, 2003, requesting an election of species to prosecute in the above-referenced patent application, Applicants hereby provisionally elect group (2), *att* recombination sites and their mutants or derivatives thereof. Claims 34-39 and 47-51 read on the elected species. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

Applicants reserve the right to have additional species considered in the event that a generic claim is found to be allowable in accordance with 37 C.F.R. § 1.141(a).

This election is made **with traverse**. In the Office Action at page 2, the Examiner states that the claims are directed to patentably distinct species. However, even where patentably distinct inventions appear in a single application, restriction remains improper unless the Examiner can show that the search and examination of the groups would entail a "serious burden." *See* MPEP § 803. In the present situation, the Examiner has failed to make such a showing.

Reconsideration and withdrawal of the Requirement for Election of Species, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required beyond those that may otherwise be provided for accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

A handwritten signature in black ink, appearing to read "B. Del Buono", with a long horizontal flourish extending to the right.

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Date: Oct. 10, 2003

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